

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DAVID V. SERNA §
VS. § CIVIL ACTION NO. 1:21cv569
JAVIER SALAZAR, ET AL. §

MEMORANDUM OPINION AND ORDER REGARDING VENUE

David V. Serna, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Javier Salazar, William McManus and the Attorney General of the United States. Defendant Salazar is the sheriff of Bexar County, Texas. William McManus is the chief of police of San Antonio, Texas. Plaintiff alleges the defendants are overseeing a criminal investigation and that they have conspired to prevent his release from prison.

Discussion

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391.

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants resides or in which the claim arose. Plaintiff's claim appears to primarily involve events that occurred in Bexar County. His claim therefore arose in Bexar County. Further, two of the three defendants reside in Bexar County. None of the defendants reside in the Eastern District of Texas.

Pursuant to 28 U.S.C. § 124, Bexar County is located in the San Antonio Division of the United States District Court for the Western District of Texas. As a result, venue in the Eastern District of Texas is not proper.

When it is determined venue is not proper, the court "shall dismiss, or if it be in the interests of justice, transfer such case to any district or division in which it could have been brought." 28

U.S.C. § 1406(a). After considering the matter, the court is of the opinion that this matter should be transferred to the Western District of Texas.

ORDER

For the reasons set forth above, it is **ORDERED** that this lawsuit is **TRANSFERRED** to the San Antonio Division of the United States District Court for the Western District of Texas.

SIGNED this 24th day of November, 2021.



Zack Hawthorn
United States Magistrate Judge